

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ANDREW A. HERZOG, alleged  
mentally ill and dangerous person,

Plaintiff,

v.

JOY WIESLER, et al.,

Defendants.

8:09CV10

**MEMORANDUM  
AND ORDER**

This matter is before the court on its own motion. Plaintiff filed his Complaint in this matter on January 5, 2009. (Filing No. [1](#).) After initial review, the court permitted Plaintiff's due process claim against Defendants in their individual capacities to proceed. (Filing No. [11](#).) Since that time, Plaintiff filed three requests to amend his Complaint. (Filing Nos. [47](#), [51](#), and [53](#).) Plaintiff's first request to amend (filing no. [47](#)) does not include any factual allegations but simply lists his claims, Plaintiff's second two requests to amend (filing nos. [51](#) and [53](#)) were never signed. In response to both the original Complaint, and to the requests to amend, Defendants filed Motions for a More Definite Statement (filing nos. [26](#) and [45](#)) and a Motion to Dismiss (filing no. [55](#)).<sup>1</sup>

This matter has been pending for nearly a year. The court has carefully reviewed all of the filings in this matter and has determined that this matter may proceed as set forth in the initial review. To be clear, Plaintiff's due process claim

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<sup>1</sup>Also pending are numerous frivolous motions filed by Plaintiff which seek "arrest warrants" for Defendants' "attempted murder" of him (filing no. [70](#)), billions of dollars in "federal property" such as cars, cargo ships, chemicals, food preparation equipment, food, weapons, and ammunition. (See, e.g., Filing Nos. [65](#), [66](#), [67](#), and [68](#).) The court will not waste its time on such motions and Plaintiff is cautioned that he should cease filing frivolous motions.

against Defendants in their individual capacities only may proceed.<sup>2</sup> Defendants have been served. Thus, Defendants shall file an answer to that claim in accordance with the schedule set forth below and this matter will be progressed in a separate progression order.

IT IS THEREFORE ORDERED that:

1. This matter may proceed on Plaintiff's due process claim only, as set forth in the court's March 2, 2009, Memorandum and Order and this Memorandum and Order. All other claims are dismissed without prejudice.

2. No later than **February 5, 2010**, Defendants shall file an answer in response to Plaintiff's due process claim.

3. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: February 5, 2010: Deadline for answer to Plaintiff's claim.

4. All pending Motions are denied.

5. A separate progression order will be entered progressing this matter to final disposition.

January 25, 2010.

BY THE COURT:

*Richard G. Kopf*

United States District Judge

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<sup>2</sup>Plaintiff's due process claim is based on allegations in the original Complaint that Defendants forcibly medicated him, and that he was allergic to that medication.